WITNESSES — COMPELLING TESTIMONY — REFUSAL OF A WITNESS TO TESTIFY ON THE GROUND THAT A STATUTE IS UNCONSTITUTIONAL. — A federal grand jury was investigating alleged violations of certain federal statutes. When witnesses refused to testify before it on the ground that the statutes were unconstitutional, presentment was made to the District Court, which, after a hearing on the merits, ordered the witnesses to answer the grand jury's questions. On refusal, witnesses were adjudged guilty of contempt of court and remanded. They then sued out writs of *habeas corpus*. *Held*, the writs were properly dismissed. *Blair* v. *United States*, U. S. Sup. Ct. No. 763, October Term, 1918.

Witnesses who refuse to give material testimony before judicial bodies are guilty of contempt. *In re Grunow*, 84 N. J. L. 235, 85 Atl. 1011. Since, however, it is doubtful whether the administration of justice would thereby be expedited, witnesses need not give testimony tending to degrade them unless it is material to the issue. *Walters* v. *Seattle, R. & So. R. R.*, 48 Wash. 233, 93 Pac. 419. Nor need a witness disclose trade secrets unless justice to the litigants renders disclosure necessary. *Herreshoff* v. *Knietsch*, 127 Fed. 492. Voters who are witnesses are not allowed to tell how they voted at political elections even if willing to do so, because the state gains more from the concealment of such facts than it would from their disclosure. *Commonwealth* v. *Barry*, 98 Ky. 394, 33 S. W. 400. For the same reason a party was not allowed to maintain an action which required a public officer to disclose military secrets. *Totten* v. *United States*, 92 U. S. 105. The decision in the principal case seems sound, since the witnesses claimed neither an excuse nor a justification. They were not, moreover, as witnesses, proper persons to attack the constitutionality of the statutes, not being the parties whose interests the statutes affected. *Mason* v. *Rollins*, 2 Biss. (U. S. C. C.) 99; *Wilkinson* v. *Board of Children' Guardians of Marion County*, 158 Ind. 1, 62 N. E. 481.

WITNESSES — PRIVILEGE AGAINST SELF-INCRIMINATION — DUTY OF COURT TO INSTRUCT WITNESS CONCERNING PRIVILEGE. — In a prosecution for adultery, the court received as substantive evidence certain self-incriminating testimony previously given by the accused as a non-party witness in a divorce proceeding against his paramour. The court, in the divorce proceeding, did not instruct the witness as to his privilege. Neither did the witness assert this right at any time. *Held*, that the testimony was improperly admitted against the accused. *People* v. *Maloy*, 170 N. W. 690 (Mich.).

It has always been deemed proper for the court, in its discretion, to caution a witness that he is not bound to answer questions where his answers would tend to criminate him. *State* v. *Dangelo*, 166 N. W. 587 (Iowa); *Dunn* v. *State*, 99 Ga. 211, 25 S. E. 448; *Emery* v. *State*, 101 Wis. 627, 78 N. W. 145. In some jurisdictions, it has been held to be the duty of the court to instruct the witness as to his right, when he was manifestly uninformed. *Ivy* v. *State*, 84 Miss. 264, 36 So. 265; *Bowen* v. *State*, 47 Texas Cr. R. 137, 82 S. W. 520; *United States* v. *Bell*, 81 Fed. 830, 853. But a majority of the more recent decisions hold that the court is not required to inform the witness. *Hanson* v. *Village of Adrian*, 126 Minn. 298, 148 N. W. 276; *Brown* v. *State*, 108 Miss. 478, 66 So. 975; *Commonwealth* v. *Shaw*, 4 Cush. (Mass.) 594. It would seem that the matter ought to be left to the discretion of the trial court. See 4 WIGMORE, EVIDENCE, § 2269. The mere fact that the court did not give such warning should not render the testimony inadmissible. The testimony was not involuntary merely because it was given under oath. *Burnett* v. *State*, 87 Ga. 622, 13 S. E. 552. See also *People* v. *McMahon*, 15 N. Y. 384, 390; *People* v. *Mitchell*, 94 Cal. 550, 555, 29 Pac. 1106, 1107; *People* v. *Gallagher*, 75 Mich. 512, 525, 42 N. W. 1063, 1067. As a practical matter, witnesses generally know their privilege. There seems to be no good reason for treating this privilege